THE BOMBAY LAND REQUISITION ACT, 1948.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Extent.
3. Duration.
4. Definitions.
5. Requisition of land.
6. Requisition of vacant premises.
7. Continuance of requisition.
8. Payment of compensation.
9. Release from requisition.
10. Powers of inquiry.
11. Power to take possession.
12. Power to obtain information.
13. Publication and service of orders.
14. Power to enter and inspect land.
15. Delegation of functions.
16. Exemption.
17. Protection of action taken under Act.
18. Officers to be deemed public servants.
19. Power to make rules.
20. Repeal.

SCHEDULE.

BOMBAY ACT No. XXXIII OF 1948.[1]

[THE BOMBAY LAND REQUISITION ACT, 1948.]

[*11th April 1948.*]

An Act to provide for the requisition of land, for the continuance of requisition of land and for certain other purposes.

WHEREAS the Governor-General, in exercise of the powers conferred on him by section 104 of the Government of India Act, 1935, has, by the Government of India, Ministry of Law, Notification No. F. 311/47-C & G, dated the 21st October 1947, empowered all Provincial Legislatures to enact laws with respect to the requisition of land;

26 Geo. 5, Ch. 2.

AND WHEREAS it is expedient to provide for the requisition of land, for the continuance of requisition of land and for certain other purposes; It is hereby enacted as follows:—

1. This Act may be called the Bombay Land Requisition Act, 1948. Short title.

2. (*1*) This Act shall extend to the areas specified in the Schedule hereto annexed and shall continue to extend to any such area notwithstanding that the area ceases to be of the description therein specified. Extent.

(*2*) The Provincial Government may, by notification in the *Official Gazette*, extend any or all of the provisions of this Act to any other area and on such date as may be specified in the notification.

(*3*) The Provincial Government may, at any time by like notification, direct that any or all of the provisions of this Act shall cease to extend to any area and on such date as may be specified in the notification; and on that date the said provisions shall cease to be in force in such area.

3. (*1*) This Act shall remain in force up to and inclusive of the 31st day of March 1950: Duration.

Provided that the Provincial Government may, by notification in the *Official Gazette*, direct that it shall remain in force for a further period not exceeding two years.

(*2*) Section 7 of the Bombay General Clauses Act, 1904, shall apply upon the expiry of this Act or upon this Act or any provision thereof ceasing to be in force in any area, as if it had then been repealed by a Bombay Act.

Bom. I of 1904.

4. In this Act, unless there is anything repugnant to the subject or context,— Definitions.

(*1*) "land" includes benefits to arise out of land, and buildings and all things attached to the earth or permanently fastened to the buildings or things attached to the earth;

(*2*) "landlord" means any person who is, for the time being, receiving, or entitled to receive, rent in respect of any premises whether on his own account or on account, or on behalf, or for the benefit, of any other person, or as

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 216.

a trustee, guardian, or receiver for any other person or who would so receive the rent or be entitled to receive the rent if the premises were let to a tenant; and includes any person, not being a tenant, who from time to time derives title under a landlord; and further includes in respect of his sub-tenant a tenant who has sublet any premises;

(*3*) "premises" means any building or part of a building let or intended to be let separately including—

(*i*) the garden, grounds, garages and out-houses, if any, appurtenant to such building or part of a building,

(*ii*) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof,

but does not include a room or other accommodation in a hotel or lodging house;

(*4*) "prescribed" means prescribed by rules made under this Act;

(*5*) "to requisition" means in relation to any land to take possession of the land or to require the land to be placed at the disposal of the Provincial Government.

Requisition of land.

5. (*1*) If in the opinion of the Provincial Government it is necessary or expedient so to do, the Provincial Government may by order in writing requisition any land for any purpose:

Provided that no building or part thereof wherein the owner, the landlord or the tenant, as the case may be, has actually resided for a continuous period of six months immediately preceding the date of the order shall be requisitioned under this section.

(*2*) Where any building or part thereof is to be requisitioned under sub-section (*1*), the Provincial Government shall make such enquiry as it deems fit and make a declaration in the order of requisition that the owner, the landlord or the tenant, as the case may be, has not actually resided therein for a continous period of six months immediately preceding the date of the order and such declaration shall be conclusive evidence that the owner, landlord or tenant has not so resided.

Requisition of vacant premises.

6. (*1*) If any premises situate in an area specified by the Provincial Government by notification in the *Official Gazette* are vacant on the date of such notification and whenever any such premises are vacant or become vacant after such date by reason of the landlord, the tenant, or the sub-tenant, as the case may be, ceasing to occupy the premises or by reason of the release of the premises from requisition or by reason of the premises being newly erected or reconstructed or for any other reason, the landlord of such premises shall give intimation thereof in the prescribed form to an officer authorised in this behalf by the Provincial Government.

(*2*) The intimation shall be given by post within one month of the date of the notification in the case of premises which are vacant on such date and in other cases within seven days of the premises becoming vacant or becoming available for occupation.

(*3*) A landlord shall not, without the permission of the Provincial Government, let, occupy, or permit to be occupied such premises before giving the intimation and for a period of one month from the date on which the intimation is received.

(*4*) Whether or not an intimation under sub-section (*1*) is given and notwithstanding anything contained in section 5, the Provincial Government may, by order in writing—

(*a*) requisition the premises and may use or deal with the premises in such manner as may appear to it to be expedient; or

(*b*) require the landlord to let the premises to specified persons or class of persons or in specified circumstances :

Provided that where an order is to be made under clause (*a*) or (*b*) requisitioning or requiring to let premises in respect of which no intimation is given by the landlord, the Provincial Government shall make such inqiry as it deems fit and make a declaration in the order that the premises were vacant or had become vacant, on or after the date referred to in sub-section (*1*) and such declaration shall be conclusive evidence that the premises were or had so become vacant :

Provided further that no order under clause (*b*) shall be made without hearing the landlord if the landlord resides in the building of which the premises form a part.

(*5*) Any landlord who fails to give such intimation within the period specified in sub-section (*2*) shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both and any landlord who lets, occupies or permits to be occupied the premises in contravention of the provisions of sub-section (*3*), shall, on conviction, be punished with imprisonment for a term which may extend to one year and shall also be punished with fine.

Explanation.—For the purposes of this section,—

(*a*) premises which are in the occupation of the landlord, the tenant or the sub tenant, as the case may be, shall be deemed to be or become vacant when such landlord ceases to be in occupation or when such tenant or sub-tenant ceases to be in occupation upon termination of his tenancy, eviction, assignment, or transfer in any other manner of his interest in the premises or otherwise, notwithstanding any instrument or occupation by any other person prior to the date when such landlord, tenant or sub-tenant so ceases to be in occupation ;

(*b*) premises newly erected or re-constructed shall be deemed to be or become vacant until they are first occupied after such erection or reconstruction.

Continuance of requisition.

XVII of 1947.

7. (*1*) Notwithstanding anything contained in the Requisitioned Land (Continuance of Powers) Act, 1947, the Provincial Government may, by order in writing, direct that any land which was continued under requisition under the said Act, shall continue to be subject to requisition under this Act when it is released from requisition under the said Act or ceases to be subject to requisition for any reason ; and the Provincial Government may use or deal with the land so continued to be subject to requisition in such manner as may appear to it to be expedient.

(*2*) In respect of the continued subjection of the land to requisition under sub-section (*1*) compensation shall be determined and paid in accordance with the provisions of this Act and of the rules made thereunder :

Provided that all agreements and awards made in relation to the land in respect of the payment of compensation for the period before it was continued to be subject to requisition under sub-section (*1*) shall continue to be in force and shall apply to the payment of compensation for the period of requisition under this Act.

Payment of compensation.

8. (*1*) When any land is requisitioned or is continued to be subject to requisition under this Act, there shall be paid, subject to the provisions of section 7, compensation to persons having interest in such land the amount of which shall be determined by an officer authorised in this behalf by the Provincial Government who shall hold an inquiry in the manner prescribed. The officer shall determine such amount of compensation as he deems just having regard to all the circumstances of the case ; and in particular he shall be guided by the provisions of sub-section (*1*) of section 23 and section 24 of the Land Acquisition Act, 1894, in so far as they can be made applicable. I of 1894.

(*2*) Where there are several persons interested in the land, the officer shall decide the dispute, if any, as to the apportionment of the amount of compensation or any part thereof or as to the persons to whom the same or any part thereof is payable.

(*3*) An appeal shall lie against the decision of the officer under sub-section (*1*) or (*2*), except in cases where the total amount of compensation in respect of the land does not exceed an amount prescribed in this behalf by the Provincial Government,—

(*a*) in Greater Bombay, to the High Court, and

(*b*) elsewhere, to the District Court.

Such appeal shall be made within a period of sixty days from the date of the decision.

(*4*) No further appeal shall lie against any decision in appeal under sub-section (*3*).

Release from requisition.

9. (*1*) The Provincial Government may, at any time, release from requisition any land requisitioned or continued to be subject to requisition under this Act.

(*2*) (*a*) Upon such release the land shall be restored as far as possible in the same condition in which it was on the date on which the Provincial Government was put in possession thereof, and the Provincial Government shall pay compensation for deterioration, if any, caused to the land otherwise than by reasonable wear and tear or irresistible force :

Provided that nothing in this sub-section shall apply to any structures, trees or crops standing on the land on the date on which the Provincial Government took possession thereof and in respect of which compensation has been paid.

(*b*) The officer authorised in this behalf by the Provincial Government shall determine such amount of compensation as he deems just and his decision, subject to an appeal to the Provincial Government, shall be final. Sich appeal shall be made within a period of thirty days from the date of the decision.

(*3*) When any land is to be released from requisition, the Provincial Government may, after making such inquiry, if any, as it deems fit, specify by order in writing the person to whom possession of the land shall be given.

(*4*) The delivery of possession of the land to the person specified in an order made under sub-section (*3*) shall be a full discharge of the Provincial Government from all liability in respect of such delivery, but shall not prejudice any rights in respect of the land which any other person may be entitled by due process of law to enforce against the person to whom possession of the land is so delivered.

(*5*) Where the person to whom possession of any requisitioned land is to be given cannot be found and has no agent or other person empowered to accept delivery

on his behalf, the Provincial Government shall cause a notice declaring that the land is released from requisition to be affixed on some conspicuous part of the land and shall publish the notice in the *Official Gazette*.

(*6*) When a notice referred to in sub-section (*5*) is published in the *Official Gazette*, the land specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof ; and the Provincial Government shall not be liable for any compensation or other claim in respect of the land for any period after the said date.

(*7*) For the purpose of releasing any land from requisition ; the Provincial Government may, by order, direct the person to whom the Provincial Government had given possession of such land and other person, if any, in occupation of such land to deliver possession thereof to the officer authorised in this behalf by the Provincial Government.

Powers of inquiry.

10. For the purposes of holding an inquiry under section 8 the authorised officer shall have the same powers as are vested in civil courts in respect of—

(*a*) proof of facts by affidavits,

(*b*) summoning and enforcing the attendance of any person and examining him on oath,

(*c*) compelling the production of documents, and

(*d*) issuing commissions for the examination of witnesses.

Power to take possession.

11. (*1*) Any officer authorised in this behalf by the Provincial Government by a general or special order may take possession of any land in respect of which an order has been made under section 5 or 6 or sub-section (*7*) of section 9 and may take or cause to be taken such steps and use or cause to be used such force as may, in the opinion of such officer, be reasonably necessary for taking possession of such land.

(*2*) The Provincial Government may, after giving 15 clear days' notice to the person from whom possession of the land has been taken under sub-section (*1*), remove or cause to be removed or dispose of by public auction any property remaining on such land.

(*3*) Where property is sold under sub-section (*2*), the sale proceeds shall, after deducting the expense of sale, be paid to such person or persons who may appear to the Provincial Government to be entitled to the same.

Power to obtain information.

12. (*1*) Any officer authorised in this behalf by the Provincial Government by a general or special order may, with a view to carrying out the purposes of this Act, by order require any person to furnish to him such information in such person's possession relating to any land which is requisitioned or is continued under requisition or is intended to be requisitioned or continued under requisition.

XLV of 1860.

(*2*) Every person required to furnish such information as is referred to in sub-section (*1*) shall be deemed to be legally bound to do so within the meaning of sections 176 and 177 of the Indian Penal Code.

Publication and service of orders.

13. (*1*) Every order made under section 5, 6, 7, sub-section (*7*) of section 9 or section 12 shall—

(*a*) if it is an order of a general nature or affecting a class of persons, be published in the manner prescribed by rules made in this behalf;

(*b*) if it is an order affecting an individual, corporation, or firm, be served in the manner provided for the service of a summons in Rule 2 of Order XXIX or Rule 3 of Order XXX, as the case may be, in the First Schedule of the Code of Civil Procedure, 1908; V of 1908.

(*c*) if it is an order affecting an individual person other than a corporation or firm, be served on the person—

(*i*) personally, by delivering or tendering to him the order, or

(*ii*) by post, or

(*iii*) where the person cannot be found, by leaving an authentic copy of the order with some adult male member of his family or by affixing such copy to some conspicuous part of the premises in which he is known to have last resided or carried on business or worked for gain.

(*2*) Where a question arises whether a person was duly informed of an order made in pursuance of section 5, 6, 7, sub-section (*7*) of section 9 or section 12 compliance with the requirements of sub-section (*1*) shall be conclusive proof that he was so informed; but failure to comply with the said requirements shall not preclude proof by other means that he was so informed or affect the validity of the order.

Power to enter and inspect land.

14. Without prejudice to any powers otherwise conferred by this Act, any officer or person empowered in this behalf by the Provincial Government by general or special order may enter and inspect any land for the purpose of determining whether, and, if so, in what manner, an order under this Act should be made in relation to such land, or with a view to securing compliance with any order made under this Act.

Delegation of functions.

15. The Provincial Government may, by order notified in the *Official Gazette*, direct that any power conferred or any duty imposed on it by this Act shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by such officer, not being in the opinion of the Provincial Government below the rank of a Collector, as may be so specified.

Exemption.

16. The Provincial Government may by rules exempt any land from the provisions of section 5 or 6 or both on such terms and conditions as may be specified in the said rules.

Protection of action taken under Act.

17. (*1*) No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act or any order made thereunder.

(*2*) Save as otherwise expressly provided under this Act no suit or other legal proceeding shall lie against the Provincial Government for any damage caused or likely to be caused by anything in good faith done or intended to be done under this Act or any order made thereunder.

Officers to be deemed public servants.

18. Every officer authorised or empowered by the Provincial Government to exercise any power or to perform any duty under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

19. (*1*) The Provincial Government may by notification in the *Official Gazette* make rules to carry into effect the purposes of this Act. Power to make rules.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*i*) the form in which intimation shall be given under sub-section (*1*) of section 6;

(*ii*) the manner of holding an inquiry under sub-section(*1*), and the amount of compensation to be prescribed under sub-section (*3*), of section 8;

(*iii*) levy of court-fees in respect of appeals under sections 8 and 9;

(*iv*) exemption of any land from the provisions of section 5 or 6 or both and the terms and conditions on which the land shall be exempted;

(*v*) any other matter which under this Act is to be or may be prescribed.

Bom. Ordinance No. V of 1947.

20. (*1*) The Bombay Land Requisition Ordinance, 1947, is hereby repealed; and it is hereby declared that the provisions of sections 7 and 25 of the Bombay General Clauses Act, 1904, shall apply to the repeal as if that Ordinance were an enactment. Repeal.

Bom. I of 1904.

(*2*) Notwithstanding the repeal of the said Ordinance and anything contained in this Act,—

(*i*) any intimation given under sub-section (*1*) of section 5 of that Ordinance within a period of seven days prior to the commencement of this Act shall be deemed to have been given under the corresponding provision of this Act;

(*ii*) any order made under the said Ordinance requisitioning any land shall be deemed to be made under this Act;

(*iii*) any land requisitioned or continued to be subject to requisition under the said Ordinance shall be deemed to be requisitioned or continued to be subject to requisition under this Act.

SCHEDULE.

1. City of Bombay.
2. Bombay Suburban District.
3. Thana District.
4. Ahmedabad District.
5. Surat District.
6. Nasik District.
7. Poona District.
8. Sholapur District.
9. Ahmednagar District.
10. Belgaum District.
11. Dharwar District.